

# Contempt of Court (CoC)

## Why in news?

Kunal Kamra, a stand-up comedian, will face contempt of court charges for his tweets following the Supreme Court's decision to grant interim bail to television anchor Arnab Goswami.

## Rationale behind CoC

- To protect judicial institutions from motivated attacks and unwarranted criticism
- Provide a legal mechanism to punish those who lower its authority
- Protect judiciary from those who defame its public image and make the public lose faith in its impartiality.

## Legal basis of CoC

- When Constitution was adopted, CoC was made one of the restrictions on freedom of speech & expression
- Article 129 of the Constitution conferred on the Supreme Court the power to punish contempt of itself.
- Article 215 conferred a corresponding power on the High Courts.
- Article 142(2) enables the Supreme Court to investigate and punish any person for its contempt.
- The Contempt of Courts Act, 1971, gives statutory backing to it.

## Types of CoC

- According to the Contempt of Courts Act, 1971, CoC can either be civil contempt or criminal contempt.
- Civil contempt means wilful disobedience of any judgment, decree, direction, order, writ or other process of a court, or wilful breach of an undertaking given to a court.
- Criminal contempt is attracted when:
  - (a) words, written or spoken, signs and actions that "scandalise" or "tends to lower" the authority of any court
  - (b) prejudices or interferes with any judicial proceeding and
  - (c) interferes with or obstructs the administration of justice.
- Punishment for contempt of court is simple imprisonment for a term up to six months and/or a fine of up to ₹ 2,000

## What is not CoC?

- Fair and accurate reporting of judicial proceedings will not amount to contempt of court.
- Any fair criticism on the merits of a judicial order after a case is heard and disposed of.

## Role of Attorney General in CoC

Prior consent in writing of the Attorney General is required for the Supreme Court to initiate criminal contempt action in cases under Contempt of Court Act, 1971.  
This consent is considered as a check on the much-debated suo-motu power of criminal contempt.

## Criticisms of CoC

- There is an impression that the judiciary tended to hide any misconduct among its individual members in the name of protecting the image of the institution.
- It gives courts wide powers to restrict an individual's fundamental right to personal liberty for "scandalising the court" or for "wilful disobedience" of any judgment, writ, direction or order.
- The offence of "scandalising the court" continues in India even though it was abolished as an offence in England and Wales long ago.
- 1971 Act, only lays down the procedure in contempt cases the power of the Courts to punish for its contempt are their inherent constitutional powers
- The Indian legislature does not provide with a concrete definition of contempt

## Conclusion

Given that 568 criminal contempt cases and 96,310 civil contempt cases are pending in the High Courts and 683 civil contempt cases and 15 criminal contempt cases have been pending in Supreme Court. There is need to use this power cautiously.  
There is a need of Reviewing the Contempt of Courts Act to make it more rationale & less arbitrary.